



[4910-13]

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Aviation Administration**

[Docket No. FAA-2008-0221]

#### **Order Limiting Operations at Newark Liberty International Airport**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of limited waiver of the slot usage requirement.

**SUMMARY:** This action grants with conditions a limited waiver of the slot usage requirement for operating authorizations (slots) at Newark Liberty International Airport (EWR) due to construction at the airport during the summer 2014 scheduling season. This waiver applies only to EWR slots for the following days and local times: (1) March 30 through June 15 for 0600-2259 slots; (2) Mondays through Saturdays from June 16 through September 19 for 0600-0629 slots; (3) Sundays from June 22 through September 14 for 0600-0859 slots; and (4) September 20 through October 25 for 0600-2259 slots.

**DATES:** Effective upon publication. The deadlines for temporary slot returns under this waiver are January 15, 2014, for slots from March 30 through July 31, 2014, and July 1, 2014, for slots from August 1 through October 25, 2014.

**FOR FURTHER INFORMATION CONTACT:** Robert Hawks, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-7143; e-mail: [rob.hawks@faa.gov](mailto:rob.hawks@faa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Port Authority of New York and New Jersey (Port Authority) will resurface EWR runway 4L/22R in 2014. This will require closing the runway from April 1 through June 1 and from September 20 through September 30, 2014. Runway 11/29 will close June 1 through 15 for construction on the intersection with runway 4L/22R. Runway 4L/22R will be open during that period with reduced runway length. Night and weekend closures of runway 4L/22R are planned until late 2014.

The FAA, Port Authority, and airport stakeholders have been meeting for several months to review the construction plans and schedules, assess the potential operational impacts, and identify mitigation options.

### **FAA Analysis**

Under the Order limiting operations at EWR, slots must be used at least 80 percent of the time. This rule is expected to accommodate routine weather and other cancellations under all but the most unusual circumstances. Slots not meeting the minimum usage requirement will not receive historical precedence for the following corresponding scheduling season.<sup>1</sup> The FAA may grant a waiver from the slot usage requirement in highly unusual and unpredictable conditions that are beyond a carrier's control and affect a carrier's operations for a period of five or more consecutive days. However, the FAA does not routinely grant general waivers to the usage requirement except under the most unusual circumstances.

The FAA has determined that the projected operational, congestion, and delay impacts of the 2014 EWR runway construction meet the requirements for a temporary waiver of the slot usage requirement. Considering the throughput impacts during construction, reducing operations to minimize congestion and delays is in the public

interest. Carriers that temporarily reduce flights and elect to temporarily return slots to the FAA rather than transfer them for another carrier's use should not be penalized by permanently losing the authority to operate.

### **FAA Decision**

In consideration of the foregoing, the FAA has determined to issue a limited slot usage waiver for the summer 2014 scheduling season. This waiver applies only to EWR slots for the following days and local times: (1) March 30 through June 15 for 0600-2259 slots; (2) Mondays through Saturdays from June 16 through September 19 for 0600-0629 slots; (3) Sundays from June 22 through September 14 for 0600-0859 slots; and (4) September 20 through October 25 for 0600-2259 slots.<sup>2</sup> To obtain a waiver for a specific slot held, a carrier must temporarily return to the FAA slots that it will not operate during the waiver period. The carrier will retain historical precedence for these temporarily returned slots. These temporary slot returns permit the FAA to plan for days on which construction closures and resulting operational impacts occur. If the closure dates change due to weather, the FAA will apply the waiver, including retroactively, if a carrier notifies the FAA that the temporarily returned slots will not be operated on any new closure dates.

The FAA recognizes that some carriers may need additional time to finalize fall schedules or may make adjustments in fall schedules based on experiences during the spring construction. Accordingly, the FAA will allow an additional slot return date to allow for better planning by carriers. For slots from March 30 through July 31, 2014, the temporary slot return deadline is Wednesday, January 15, 2014. For slots from August 1

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<sup>1</sup> 78 FR 28280, 28281 (May 14, 2013).

through October 25, 2014, the temporary slot return deadline is Tuesday, July 1, 2014.

Temporary slot returns should be submitted to the Slot Administration Office by e-mail at *7-awa-slotadmin@faa.gov*. These return notifications should indicate they are subject to this waiver.

Issued in Washington, DC, on September 13, 2013.

Mark W. Bury,  
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International Law, Legislation, and Regulations.

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<sup>2</sup> The FAA is granting the waiver until the end of the scheduling season rather than only for the September 20-30 runway closure. It may not be practical for carriers to resume some suspended flights in October.